

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY AUGUST 30, 2005

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 12, 2005

**SENATE BILL**

**No. 60**

**Introduced by Senator Cedillo**

January 13, 2005

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An act to amend, *repeal, and add* Section 12801.5 of, to add Sections 1653.6 and 12801.1 to, *to add and repeal Section 12801.9 of*, and to repeal Section 14610.7 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 60, as amended, Cedillo. Vehicles: driver's license.

(1) Existing law requires the Department of Motor Vehicles (hereafter the department), upon proper application, to issue driver's licenses and identification cards.

This bill would require the department, in the issuance of driver's licenses and identification cards, to issue licenses and cards that are in compliance with specified requirements of the federal Real ID Act of 2005 (Public Law 109-13).

The bill, *after notice of the adoption of final regulations implementing the federal Real ID Act of 2005 is published in the Federal Register, but no later than May 12, 2008*, would require the department to issue driver's licenses that permit driving and are acceptable by a federal agency for any official purpose, as certified by the federal Secretary of Homeland Security, to those applicants who

are in compliance with specified requirements of specified provisions of the federal act.

The bill would also require the department, in compliance with the federal act, *and no later than 240 days after the above-described notice is published in the Federal Register*, to issue driver's licenses that permit driving, and are not acceptable by a federal agency for federal identification or for any other official purpose, to those applicants who do not provide valid documentary evidence of lawful status under the federal act.

(2) Existing law requires the department to require every applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law and prohibits the department from issuing a license or card to a person who does not do so. Existing law requires the department to adopt regulations, including procedures for verifying citizenship or legal residency of applicants for driver's licenses and identification cards, and to make a specified report, annually.

This bill would repeal those requirements *on the date that the Secretary of State receives a notice from the Director of Motor Vehicles indicating that the department is in compliance with the implementation of the federal Real ID Act of 2005*.

*This bill would, however, until the date of receipt by the Secretary of State of the notice, described above, require the department to accept an original notice of action document that contains a valid application verification number and is issued by a regional service center of the federal Citizenship and Immigration Service (CIS) of the United States Department of Homeland Security, as proof that the driver's license applicant's presence in the United States is authorized under federal law.*

*The bill would require the department to use the Case Status Service Online Internet Web site of the CIS, or any other verification mechanism deemed acceptable by the CIS and the department, to verify an applicant's pending status.*

*The bill would require a driver's license issued to a person eligible under these provisions to be for a limited term of 30 months. The bill would require the department to renew the license for consecutive one-year periods until the date the department determines that the CIS has taken a final action on the applicant's legal residency application,*

*or until the department has implemented the provisions of the federal Real ID Act of 2005, whichever date occurs first.*

*The bill would require the department to commence implementation of the provisions relating to acceptance of CIS documents as proof of an applicant's lawful presence on or before March 1, 2006.*

(3) Existing law makes it a misdemeanor for any person to knowingly assist in obtaining a driver's license or identification card for any person whose presence in the United States is not authorized under federal law.

This bill would delete that provision.

(4) The bill would provide that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as  
2 the California Real ID Act of 2005.

3 SEC. 2. The Legislature intends by the enactment of this act  
4 to accomplish the following:

5 (a) Meet or exceed the document and issuance standards set  
6 forth in the federal Real ID Act of 2005 (Public Law 109-13), to  
7 ensure that California has a federally-recognized and acceptable  
8 driver's license and identification card.

9 (b) Provide driver's licenses that permit driving, but cannot be  
10 used for federal identification purposes, consistent with the  
11 federal Real ID Act of 2005, to California drivers that cannot  
12 meet the minimum identity confirmation requirements necessary  
13 to obtain a federally-recognized driver's license or identification  
14 card.

15 SEC. 3. Section 1653.6 is added to the Vehicle Code, to read:  
16 1653.6. In the issuance of driver's licenses and identification  
17 cards under this code, the department shall issue driver's licenses  
18 and identification cards that are in compliance with Section 202  
19 of Title II of the federal Real ID Act of 2005 (Public Law  
20 109-13).

21 SEC. 4. Section 12801.1 is added to the Vehicle Code, to  
22 read:

23 12801.1. (a) ~~The~~ *After the notice of adoption of the final*  
24 *regulations implementing the federal Real ID Act of 2005 (Public*

1 *Law 109-13) is published in the Federal Register, but no later*  
2 *than May 12, 2008, the department shall issue driver's licenses*  
3 *that permit driving and are acceptable by a federal agency for any*  
4 *official purpose, as certified by the Secretary of Homeland*  
5 *Security, to those applicants who are in compliance with the*  
6 *requirements of Section 202 of Title II of the federal Real ID Act*  
7 *of 2005 (Public Law 109-13).*

8 (b) The department, in compliance with the federal Real ID  
9 Act of 2005, *and no later than 240 days after the notice*  
10 *described in subdivision (a) is published in the Federal Register,*  
11 *shall issue driver's licenses that permit driving, and are not*  
12 *acceptable by a federal agency for federal identification or for*  
13 *any other official purpose pursuant to paragraph (11) of*  
14 *subsection (d) of Section 202 of Title II of the federal act, to*  
15 *those applicants who do not meet the requirements of*  
16 *subparagraph (B) of paragraph (2) of subsection (c) of Section*  
17 *202 of the federal act.*

18 ~~SEC. 5. Section 12801.5 of the Vehicle Code is amended to~~  
19 ~~read:~~

20 ~~12801.5. (a) Notwithstanding any other provision of law, a~~  
21 ~~peace officer may not detain or arrest a person solely on the~~  
22 ~~belief that the person is an unlicensed driver, unless the officer~~  
23 ~~has reasonable cause to believe the person driving is under the~~  
24 ~~age of 16 years.~~

25 ~~(b) The inability to obtain a driver's license pursuant to this~~  
26 ~~section does not abrogate or diminish in any respect the legal~~  
27 ~~requirement of every driver in this state to obey the motor vehicle~~  
28 ~~laws of this state, including laws with respect to licensing, motor~~  
29 ~~vehicle registration, and financial responsibility.~~

30 ~~SEC. 5. Section 12801.5 of the Vehicle Code is amended to~~  
31 ~~read:~~

32 12801.5. (a) Notwithstanding any other provision of law, the  
33 department shall require an applicant for an original driver's  
34 license or identification card to submit satisfactory proof that the  
35 applicant's presence in the United States is authorized under  
36 federal law.

37 (b) The department shall not issue an original driver's license  
38 or identification card to a person who does not submit  
39 satisfactory proof that the applicant's presence in the United  
40 States is authorized under federal law.

1 (c) The department shall adopt regulations to carry out the  
2 purposes of this section, including procedures for, but not limited  
3 to, (1) verifying that the applicant's presence in the United States  
4 is authorized under federal law, (2) issuance of a temporary  
5 license pending verification of the applicant's status, and (3)  
6 appeal hearings from a denial of a license, temporary license, or  
7 identification card.

8 (d) On January 10 of each year, the department shall submit a  
9 supplemental budget report to the Governor and the Legislature  
10 detailing the costs of verifying the citizenship or legal residency  
11 of applicants for driver's licenses and identification cards, in  
12 order for the state to request reimbursement from the federal  
13 government.

14 (e) Notwithstanding Section 40300 or any other provision of  
15 law, a peace officer may not detain or arrest a person solely on  
16 the belief that the person is an unlicensed driver, unless the  
17 officer has reasonable cause to believe the person driving is  
18 under the age of 16 years.

19 (f) The inability to obtain a driver's license pursuant to this  
20 section does not abrogate or diminish in any respect the legal  
21 requirement of every driver in this state to obey the motor vehicle  
22 laws of this state, including laws with respect to licensing, motor  
23 vehicle registration, and financial responsibility.

24 (g) (1) *The director shall determine the date that the*  
25 *department is in compliance with the implementation of the*  
26 *federal Real ID Act of 2005 (Public Law 109-13).*

27 (2) *The director shall submit a notice of the determination*  
28 *under paragraph (1) to the Secretary of State, and on the date of*  
29 *receipt of that notice by the Secretary of State, this section is*  
30 *repealed.*

31 SEC. 6. *Section 12801.5 is added to the Vehicle Code, to*  
32 *read:*

33 12801.5. (a) *Notwithstanding any other provision of law, a*  
34 *peace officer may not detain or arrest a person solely on the*  
35 *belief that the person is an unlicensed driver, unless the officer*  
36 *has reasonable cause to believe the person driving is under the*  
37 *age of 16 years.*

38 (b) *The inability to obtain a driver's license pursuant to this*  
39 *section does not abrogate or diminish in any respect the legal*  
40 *requirement of every driver in this state to obey the motor vehicle*

1 laws of this state, including laws with respect to licensing, motor  
2 vehicle registration, and financial responsibility.

3 (c) This section shall become operative upon the receipt by the  
4 Secretary of State of the notice specified in paragraph (2) of  
5 subdivision (g) of Section 12801.5, as amended by Section 5 of  
6 the act that added this section.

7 SEC. 7. Section 12801.9 is added to the Vehicle Code, to  
8 read:

9 12801.9. (a) The Legislature hereby finds and declares all of  
10 the following:

11 (1) There are residents of California who have applied to the  
12 federal Citizenship and Immigration Service (CIS) of the United  
13 States Department of Homeland Security for legal residency and  
14 have had their applications accepted by the CIS for processing.

15 (2) The persons described in paragraph (1), who have made  
16 themselves known to the federal government and have had their  
17 applications for adjustment of status accepted by the CIS for  
18 processing, are not deportable based on their immigration status.

19 (3) Persons with pending applications for adjustment of status  
20 are issued application verification numbers on their notice of  
21 action document by the CIS. These application verification  
22 numbers are unique to each individual and can be verified  
23 through the Case Status Service Online Internet Web site of the  
24 CIS.

25 (4) California does not issue a driver's license to persons with  
26 pending applications for adjustment of status. However, under  
27 the federal Real ID Act of 2005 (Public Law 109-13), a  
28 temporary driver's license issued to a person with a pending  
29 application for adjustment of status would be accepted for  
30 official purposes under that federal act.

31 (b) For purposes of Section 12801.5, the department shall  
32 accept an original notice of action document that contains a  
33 valid application verification number and is issued by a regional  
34 service center of the CIS, as proof that the driver's license  
35 applicant's presence in the United States is authorized under  
36 federal law.

37 (c) The department shall use the Case Status Service Online  
38 Internet Web site of the CIS, or any other verification mechanism  
39 deemed acceptable by the CIS and the department, to verify an  
40 applicant's pending status.

1     *(d) A driver's license issued to a person eligible under this*  
2     *section shall be for a limited term of 30 months. The department*  
3     *shall renew the license for consecutive one-year periods until the*  
4     *date the department determines that the CIS has taken a final*  
5     *action on the applicant's legal residency application, or until the*  
6     *department has implemented the provisions of the federal Real*  
7     *ID Act of 2005 (Public Law 109-13), whichever date occurs first.*

8     *(e) The department shall commence implementation of this*  
9     *section on or before March 1, 2006.*

10    *(f) This section is repealed on the date that the Secretary of*  
11    *State receives the notice described in paragraph (2) of*  
12    *subdivision (g) of Section 12081.5, as amended by Section 5 of*  
13    *the act that added this section.*

14    ~~SEC. 6.~~

15    ~~SEC. 8.~~ Section 14610.7 of the Vehicle Code is repealed.

16    ~~SEC. 7.~~

17    ~~SEC. 9.~~ The provisions of this act are severable. If any  
18    provision of this act or its application is held invalid, that  
19    invalidity shall not affect other provisions or applications that can  
20    be given effect without the invalid provision or application.